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PPLICATION NO.	FI	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/649,255	08/27/2003		Mark A. Dombroski	PC23304A	5909
23913	7590	01/12/2005		EXAM	INER
PFIZER IN	С		HUANG, EVELYN MEI		
150 EAST 42	2ND STR	EET			-
5TH FLOOR	- STOP	49	ART UNIT	PAPER NUMBER	
NEW YORK	, NY 10	017-5612	1625		

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Applicati n No.	Applicant(s)
065 - 4 - 11 - 0	10/649,255	DOMBROSKI ET AL.
Offic Action Summary	Examin r	Art Unit
	Evelyn Huang	1625
The MAILING DATE of this communication Period for Reply	appears n the cover sheet w	ith the correspondence address
A SHORTENED STATUTORY PERIOD FOR RETHE MAILING DATE OF THIS COMMUNICATION - Extensions of time may be available under the provisions of 37 CF after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above is less than thirty (30) days, If NO period for reply is specified above, the maximum statutory provided to the provided period for reply within the set or extended period for reply will, by some any reply received by the Office later than three months after the rearned patent term adjustment. See 37 CFR 1.704(b).	ON. R 1.136(a). In no event, however, may a n. a reply within the statutory minimum of thin eriod will apply and will expire SIX (6) MOI tatute, cause the application to become A	reply be timely filed ty (30) days will be considered timely. NTHS from the mailing date of this communication. BANDONED (35 U.S.C. § 133).
Status		
1) Responsive to communication(s) filed on 1	13 October 2004.	
2a)⊠ This action is FINAL . 2b)□	This action is non-final.	
3) Since this application is in condition for alle closed in accordance with the practice und	·	•
Disposition of Claims		
4) ☐ Claim(s) 1 and 3-11 is/are pending in the a 4a) Of the above claim(s) is/are with 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) 1, 3-11 is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction as	ndrawn from consideration.	
Application Papers		
9)☐ The specification is objected to by the Exar	miner.	
10) The drawing(s) filed on is/are: a)	· · · · · · · · · · · · · · · · · · ·	•
Applicant may not request that any objection to		• •
Replacement drawing sheet(s) including the co	·	
Priority under 35 U.S.C. § 119		
12) Acknowledgment is made of a claim for form a) All b) Some * c) None of: 1. Certified copies of the priority docum 2. Certified copies of the priority docum 3. Copies of the certified copies of the application from the International But * See the attached detailed Office action for a	nents have been received. nents have been received in A priority documents have beer ireau (PCT Rule 17.2(a)).	Application No received in this National Stage
Attachment(s)		
Notice of References Cited (PTO-892) D Notice of Draftsperson's Patent Drawing Review (PTO-948)		Summary (PTO-413) s)/Mail Date
 2) Notice of Draitsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SI Paper No(s)/Mail Date 	• —	nformal Patent Application (PTO-152) —.

DETAILED ACTION

1. Claims 1, 3-11 are pending. Claims 2, 12-17 have been canceled according to the amendment filed on 10-13-2004.

Priority

2. The amendment to insert the specific reference to provisional application 60/407489 in the first sentence of the specification is acknowledged.

Duplicate Claims

3. The cancellation of Claim 2 has rendered moot the objection to its being a substantial duplicate of claim 1.

Claim Rejections - 35 USC § 103

4. The rejection for Claims 1, 3-11 under 35 U.S.C. 103(a) as being obvious over McClure (6696464) is maintained for reasons of record.

The Declaration by Dr. McClure has been fully considered but deemed insufficient to overcome the obviousness rejection for the following reasons.

In the Declaration, comparison is not made between the closest prior art compound and the inventive compound. More specifically, McClure's Example 12 has a 4-fluorophenyl and a 3-isopropyl, whereas the instant Example 1 has a 2,4-difluorophenyl and a 3-cyclopropyl. There are two differences between these compounds.

To establish unexpected results, the side-by-side comparison should be made with the closest prior art compound with only one difference. In this case, the closest compound is McClure's Example 3, which has a 4-fluorophenyl instead of the 2, 4 or 2,5-difluoro-phenyl of the compound of instant claims 4, 5, or the first or last two compounds of instant claim 11.

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Since unexpected results have not been established, the instant remains obvious over the prior art of record.

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The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(l)(1) and § 706.02(l)(2). ****.

Double Patenting

5. The provisional rejection for Claim 11 under 35 U.S.C. 101 as claiming the same invention as that of claim 12 of copending Application No. 10/649236 is maintained for reasons of record. Applicants did not respond to this rejection.

Double Patenting

- 6. The rejection for Claims 1, 3-11 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5, 15, 49, 50 of U.S. Patent No. 6696464 is maintained for reasons of record. Applicants state that a TD would be submitted in due course.
- 7. The provisional rejection for Claims 1, 3-11 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5, 7-11 of copending

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Application No. 10/649236 is maintained for reasons of record. Applicants state that a TD would be submitted in due course.

- 8. The provisional rejection for Claims 1, 3-11 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of copending Application No. 10/649227 in view of McClure (6696464) is maintained for reasons of record. Applicants state that a TD would be submitted in due course.
- 9. The provisional rejection for Claims 1, 3-11 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of copending Application No. 10/649265 in view of McClure (6696464) is maintained for reasons of record. Applicants state that a TD would be submitted in due course.
- 10. The provisional rejection for Claims 1-11 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of copending Application No. 10/649216 in view of McClure (6696464) is maintained for reasons of record. Applicants state that a TD would be submitted in due course.

Conclusion

- 11. No claims are allowed.
- 12. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the 13. examiner should be directed to Evelyn Huang whose telephone number is 571-272-0686. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on 571-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Primary Examiner

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